OTHER MEDICAID SERVICES (7400)

Section 7406 Personal Care Services.

Section 7406.1 Definitions

As used in these regulations:

(a) "Activities of Daily Living" (ADL) means dressing; bathing; grooming; eating; transferring; mobility; and toileting.

(b) "Employer" means the individual who is responsible for the hiring of and ensuring payment to the qualified provider.

(c) "Functional Evaluation Tool" means a standardized assessment tool to determine the medical necessity for personal care services.

(d) "Instrumental Activities of Daily Living" (IADL) means personal hygiene, light housework, laundry, meal preparation, transportation, grocery shopping, using the telephone, medication management, and money management.

(e) "Personal care services" means medically necessary services related to ADLs and IADLS that are furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for people with developmental disabilities, or institution for mental disease.

(f) "Personal Care Attendant" means an individual who provides the personal care services to a child. A qualified provider may not be a biological or adoptive parent, guardian, shared living provider, foster parent, step-parent, domestic/civil union partner of the child's primary caregiver, or a relative serving in the primary caregiver capacity.

7406.2 Eligibility Criteria.

To be eligible for Personal Care Services a child must:

(a) Be under the age of 21;
(b) Have active Medicaid enrollment;
(c) Have a medical condition, disability or cognitive impairment as documented by a physician, psychologist, psychiatrist, physician's assistant, nurse practitioner or other licensed clinician and;
(d) Qualify for medically necessary personal care services based on functional limitations in age-appropriate ability to perform ADLs as indicated by a Functional Evaluation Tool.

7406.3 Covered Services.

A. Covered personal care services must be medically necessary and shall include:

1. Hands-on assistance to address unmet needs with ADLs; such as bathing, dressing, grooming, bladder, or bowel requirements;

2. Assistance with eating, or drinking and diet activities, to include the preparation of meals when necessary;
3. Assistance in monitoring vital signs;
4. Routine skin care;
5. Assistance with positioning, lifting, transferring, ambulation and exercise;
6. Set-up, supervision, cueing, prompting, and guiding, when provided as part of the hands-on assistance with ADLs for which there are unmet needs;
7. Assistance with home management IADLs that are directly related to the ADLs for which there are unmet needs, and are essential to the beneficiary's care at home;
8. Medication assistance when directly linked to a documented medical condition or physical or cognitive impairment causing the functional limitations requiring personal care services;
9. Assistance with adaptive or assistive devices when directly linked to the ADLs;
10. Assistance with the use of durable medical equipment when directly linked to the ADLs;
11. Accompanying the recipient to clinics, physician office visits, or other trips which are medically necessary.

B. Services shall be individualized and shall be provided exclusively to the authorized individual.

C. Services shall not exceed the amount awarded.

D. Services shall not be provided prior to the effective date or after the end date of the prior authorization period.

E. Services shall not be provided concurrently by one qualified provider to multiple people through this benefit.

F. All personal care services must have prior authorization based on medical necessity. Initial service authorizations are granted and processed after completion of the Functional Evaluation Tool and a service plan have been reviewed and approved.

G. Services must be provided in the most cost effective manner possible.

H. Recipients may be authorized to receive up to 30 hours of services a week at the Medicaid rate.

I. Subject to available funds the parent, guardian or recipient, if legally responsible for him or herself, may in their discretion choose to meet the personal care needs of the recipient by paying the personal care attendant at higher than the Medicaid rate. Recipients electing to exercise this option are not eligible for additional hours over those awarded based on the Medicaid rate on file.

7406.4 Personal Care Attendant.

A. Personal care services must be provided by qualified personnel who:
   i. Have successfully passed the required background checks; and
   ii. Are at least 18 years of age.

B. A personal care attendant may be employed:

i. By home health agencies, nursing service agencies, or other agencies authorized to furnish this service; or

ii. Directly by the recipient, family, guardian, or guardian's designee (known as self/family/surrogate directed services). In the case of self, family, or surrogate direction, the employer must use the state-sanctioned intermediary service organization (ISO) for payroll and administrative services.

C. Personal Care Attendant Wages and Payroll Taxes –The employer is responsible for paying the appropriate payroll taxes out of the approved Medicaid rate.

7406.5 Functional Evaluation Tool.

a. Medical necessity will be established by means of a standardized functional evaluation tool.

b. The standardized functional evaluation tool shall measure the amount of assistance a recipient requires in activities of daily living and such instrumental activities of daily living directly related to the recipient's ADLs.

c. The recipient's personal care award will be equal to the amount of personal care services which exceeds the amount of personal care assistance appropriate to the child's age as indicated by the functional evaluation tool.

d. The date of a reevaluation will occur in accordance with the following:
   i. Annually for children through age 5.
   ii. Every 3 years after age 6, if the child has two consecutive years of the same evaluation outcome.
   iii. There is a belief there has been a change in the child's condition.

7406.6 Variances.

A. Parents or guardians may apply for a variance from any of the determinations made under this section 7406.

B. Variances to these regulations may be granted upon a determination that the variance is medically necessary to meet the personal care needs related to the ADLs and IADLs of Medicaid-enrolled children with significant disabilities or health conditions. The need for the variance must be documented and the documentation presented at the time of the variance request.

C. Variance requests shall be submitted in writing, and shall include:

1. A description of the recipient's unmet need(s); and
2. An explanation of why the unmet need(s) cannot be met.

D. In order to make a decision regarding a variance request, additional information and documentation may be requested. The decision shall take into account:

1. the amount of family/caregiver support available and appropriate for typically developing children of the recipient's age and;
2. the array of other services the recipient may be receiving.

E. A decision shall be issued regarding a variance request within 30 days of receiving the request and written notice of the decision, with appeal rights, shall be sent within 30 days.